



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[USCG-2013-0408]

RIN 1625-AA00

Safety Zone, Tennessee River, Mile 625.5 to 626.5

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing a temporary safety zone for the waters of the Tennessee River beginning at mile marker 625.5 and ending at mile marker 626.5, extending bank to bank. This zone is necessary to provide safety from the fallout from the Randy Boyd fireworks that are being launched on the Tennessee River at mile marker 626.0. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Ohio Valley or designated representative.

DATES: This temporary final rule is effective from 9 p.m. through 9:30 p.m. on July 5, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2013-0408]. To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Petty Officer James Alter, Marine Safety Detachment Nashville, at (615) 736-5421. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision

authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. The Coast guard received notice on May 15, 2013 that this fireworks show is planned to take place on July 5, 2013. After a review of the event information and location, the Coast Guard determined that a safety zone is necessary. Given the lack of calendar days between notice from the event sponsor to the Coast Guard and the time of the scheduled event, it would be impracticable to complete the NPRM process within this short period. Immediate action is necessary to protect event participants and members of the public from the possible marine hazards present during a fireworks display on or over the waterway. Delaying the safety zone would also unnecessarily interfere with the planned event.

For the same reasons, under 5 U.S.C. 553(d) (3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Providing a full 30 days notice and delaying the effective date for this safety zone would be

impracticable because immediate action is necessary to protect event participants and members of the public from the possible marine hazards present during a fireworks display on or over the waterway.

#### B. Basis and Purpose

The Randy Boyd fireworks display takes place on the Tennessee River and is launched from a floating platform in the middle of the river at mile marker 626.0. Fireworks displays taking place on or over a waterway pose possible hazards to the marine traffic and spectators on the waterway during the display. The Coast Guard determined that a temporary safety zone is needed to protect life and property during the fireworks display. The legal basis and authorities for this rulemaking establishing a safety zone are found in 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorizes the Coast Guard to establish and define regulatory safety zones. The Captain of the Port Ohio Valley is establishing a safety zone for all waters of the Tennessee River, beginning at mile marker 625.5 and ending at 626.5 to protect persons and property from hazards associated with a fireworks display. Entry into

this zone is prohibited unless specifically authorized by the Captain of the Port Ohio Valley or a designated representative.

#### C. Discussion of the Final Rule

The Captain of the Port Ohio Valley is establishing a safety zone for the waters of the Tennessee River, beginning at mile marker 625.5 and ending at 626.5. Vessels shall not enter into, depart from, or move within this safety zone without permission from the Captain of the Port Ohio Valley or designated representative. Persons or vessels requiring entry into or passage through a safety zone must request permission from the Captain of the Port Ohio Valley, or a designated representative. They may be contacted on VHF-FM Channel 13 or 16, or through Coast Guard Sector Ohio Valley at 1-800-253-7465. This rule is effective from 9:00 p.m. until 9:30 p.m. on July 5, 2013. The Captain of the Port Ohio Valley will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these

statutes or executive orders.

#### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that Order.

This safety zone restricts transit on the Tennessee River from mile marker 625.5 through 626.5 and covers a period of one hour, from 9:00 p.m. through 9:30 p.m. on July 5, 2013. Due to its short duration and limited scope, affecting only one mile of the waterway, it does not pose a significant regulatory impact. Broadcast Notices to Mariners will also inform the community of this safety zone so that they may plan accordingly for this short restriction on transit. Vessel traffic may request permission from the COTP Ohio Valley or a designated representative to enter the restricted area.

#### 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider

the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit mile marker 625.5 to 626.5 on the Tennessee River, from 9:00 p.m. to 9:30 p.m. on July 5, 2013. The safety zone will not have a significant economic impact on a substantial number of small entities because this rule will be in effect for a short period of time, will be of limited scope, and affects only one mile of the waterway. Broadcast Notices to Mariners will also inform the community of this safety zone so that they may plan accordingly for this short restriction on transit. Vessel traffic may request permission from the COTP Ohio Valley or a designated representative to enter the restricted area.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please

contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order



and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with

Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

## 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

## 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a one mile temporary safety zone to provide safety for persons and property nearby fireworks that are being launched on the Tennessee River at mile marker 626.0 scheduled to take place during the evening of July 5, 2013. This rule will be in effect for 30 minutes from 9:00 PM to 9:30 PM. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the U. S. Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T08-0408 to read as follows:

§ 165.T08-0408 Safety Zone; Tennessee River, Miles 625.5 to 626.5, Knoxville, TN

(a) Location. The following area is a safety zone: all waters of the Tennessee River, beginning at mile marker 625.5 and ending at mile marker 626.5.

(b) Effective date. This rule is effective from 9

p.m. to 9:30 p.m. on July 5, 2013.

(c) Regulations. (1) In accordance with the general regulations in §165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Ohio Valley or a designated representative.

(2) Persons or vessels requiring entry into or passage through the safety zone must request permission from the Captain of the Port Ohio Valley or a designated representative. U. S. Coast Guard Sector Ohio Valley may be contacted on VHF Channel 13 or 16, or at 1-800-253-7465.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Ohio Valley and designated U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(d) Informational broadcasts: The Captain of the Port Ohio Valley or a designated representative will inform the

public through broadcast notice to mariners when the safety zone has been established and if there are changes to the enforcement period for this safety zone.

DATED: June 13, 2013

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L. W. HEWETT  
Captain, U.S. Coast Guard  
Captain of the Port Ohio Valley

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